

REMARKS

This paper is filed in response to the Office Action mailed September 30, 2009. Claim 70 has been cancelled without prejudice. Applicants maintain the right to prosecute the cancelled claims in any related application claiming the benefit of priority of the subject application. Accordingly, claims 69 and 71 to 87 are pending and under consideration.

Regarding the Amendments

The amendments to the claims are supported throughout the specification or were made to address informality. In particular, the amendment to claims 69 and 76 to recite that “said acephate is present in an amount of about 97% by weight or more” is supported, for example, by originally filed claims 33 and 36, and the paragraph bridging pages 5 and 6. The amendment to claim 71 to depend from claim 69 was made in view of claim 70 being cancelled. The amendment to claim 76 to delete “being” and to insert “and” was made to improve clarity. Accordingly, as the amendments to the claims are supported by the specification or were made to address informalities, no new matter has been added and entry thereof is respectfully requested.

I. REJECTIONS UNDER 35 U.S.C. §§102(b) and 103(a)

The rejection of claims 69, 74 to 76 and 81 under 35 U.S.C. §102(b) as allegedly anticipated by Misselbrook et al. (U.S. 2005/160530), or alternatively under 35 U.S.C. §103(a) as allegedly obvious in view of Misselbrook et al. (U.S. 2005/160530) and Losel et al. (U.S. Patent 5,707,638) is respectfully traversed. The grounds for rejection are set forth at page 2 of the Office Action.

Claims 69, 74 to 76 and 81 as amended, are not anticipated by Misselbrook et al. nor would have been obvious in view of Misselbrook et al. and Losel et al. at the time of the invention. Consequently, the rejections under 35 U.S.C. §§102(b) and 103(a) must be withdrawn.

II. OBVIOUSNESS TYPE DOUBLE PATENTING REJECTION

The rejection of claims 69 to 71, 73 to 78, 80 to 85 and 87 as allegedly unpatentable over claims 1 to 15 of U.S. Patent No. 6,337,323 is respectfully traversed. The grounds for rejection are set forth at page 2 of the Office Action.

Solely in order to further prosecution of the application and without acquiescing to the propriety of the rejection, submitted herewith is a Terminal Disclaimer with respect to U.S.

Patent No. 6,337,323. In view of the Terminal Disclaimer Applicants respectfully request that the non-statutory obviousness-type double patenting rejection be withdrawn.

CONCLUSION

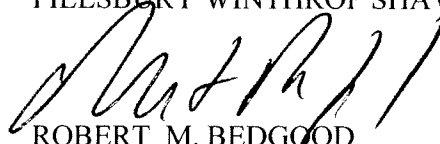
In summary, for the reasons set forth herein, Applicants maintain that the claims clearly and patentably define the invention, respectfully request that the Examiner reconsider the various grounds set forth in the Office Action, and respectfully request the allowance of the claims which are now pending.

If the Examiner would like to discuss any of the issues raised in the Office Action, Applicant's representative can be reached at (858) 509-4065.

Please charge any fees associated with the submission of this paper to Deposit Account Number 033975. The Commissioner for Patents is also authorized to credit any over payments to the above-referenced Deposit Account.

Respectfully submitted,

PILLSBURY WINTHROP SHAW PITTMAN LLP

A handwritten signature in black ink, appearing to read 'R. M. Bedgood', is written over the printed name.

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